



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRICK DERMONT TAYLOR,

Plaintiff,

- against -

CITY OF NEW YORK, et al.,

Defendants.
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22-CV-10214 (JLR) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

On December 1, 2022, Plaintiff, a pretrial detainee confined to the Robert N. Davoren Complex ("RNDC") on Rikers Island, proceeding pro se, commenced this civil action pursuant to 28 U.S.C. § 1983 claiming that RNDC medical staff was not providing him with adequate medical care. (Dkts. 1-2). On March 1, 2023, the Court issued an order of service, requesting Defendant City of New York (the "City") to waive service of summons and directing service of the summons and complaint by the U.S. Marshals Service on Defendant New York City Health & Hospitals Corporation ("Health & Hospitals"). (Dkt. 6 at 2-3.) The service order also directed Health & Hospitals to identify the RNDC medical staff members who were involved in Plaintiff's medical care from October 22, 2022 to the present, which would then allow Plaintiff to file an amended complaint naming individual RNDC medical staff members as defendants. (*Id.* at 4.)

The City filed a waiver of service on March 23, 2023 (Dkt. 11), and counsel appeared for Health & Hospitals on April 3, 2023. (Dkts. 12-13.) That same day, counsel for the City and Health & Hospitals filed a letter indicating that both Defendants anticipated moving to dismiss for failure to state a claim and requesting an extension of time to

answer or otherwise respond until after Plaintiff files an amended complaint to avoid the need for multiple redundant motions. (Dkt. 14.) The Court granted an extension of the deadlines to answer until May 24, 2023, and ordered the City and Health & Hospitals to file a status report by May 10, 2023 indicating whether the potential additional defendants had been identified. (Dkt. 15.)

On April 4, 2023, counsel for Defendants filed a letter stating that their “investigation has revealed that we cannot properly identify the medical staff member(s) plaintiff seeks to sue here with the limited information plaintiff provided in the Complaint,” which did not indicate the number of individuals involved, what they looked like, or what they each specifically are alleged to have done (Dkt. 16.) Defendants asked for guidance on how to proceed. (*Id.*)

Accordingly, on April 6, 2023, the Court ordered Plaintiff to provide to Defendants, by May 6, 2023, any identifying information regarding the relevant RNDC staff involved in Plaintiff’s care, in order to aid Defendants in identifying the individuals alleged to have committed any of the conduct alleged in the Complaint. (Dkt. 18.) Plaintiff did not do so and did not file any response to the Court’s April 6 order.

On May 9, 2023, the Court issued an order further extending Defendants’ time to answer and giving Plaintiff “a final chance” to provide identifying information by June 15, 2023 and warned that, if he failed to do so, his case may be dismissed in whole or in part for failure to prosecute. (Dkt. 20.) Again, Plaintiff failed to do so and did not file any response to the Court’s order.

On June 21, 2023, the City and Health & Hospitals filed a letter requesting that the case be dismissed with prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). (Dkt. 22.)

Notwithstanding Plaintiff's failure to provide any information to help identify additional defendants, two Defendants remain in the case, and Plaintiff has not failed to prosecute as to them. The Court thus declines to recommend dismissal for failure to prosecute at this time. Instead, Defendants City and Health & Hospitals shall proceed with either answering the Complaint as it stands or filing a motion to dismiss. Defendants shall file either their answer or their motion to dismiss by **July 21, 2023**. Plaintiff's opposition, if any, shall be filed by **August 25, 2023**. Defendants' reply, if any, shall be filed by **September 8, 2023**.

Further, because Plaintiff has failed to comply with multiple court orders requiring him to provide identifying information of RNDC personnel allegedly involved in his care, Plaintiff is, in the absence of good cause, precluded from filing an amended complaint to add additional defendants.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: June 21, 2023
New York, New York

Copies transmitted this date to all counsel of record. The Court respectfully requests the Clerk of Court to mail a copy of this Order to the pro se Plaintiff:

Darrick Dermont Taylor
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Rikers Island, RNDC
11-11 Hazen Street
East Elmhurst, NY 11370